

Appendix A: Procedural Requirements and Authority

Exhibit A- I: Delegation of Authority



Memorandum

Date: November 12, 2019
To: Daniel Czecholinski, Division Director, Air Quality Division
From: Misael Cabrera, Director
Subject: Ongoing Air Quality Delegation of Authority

Under A.R.S. §49-104(D) (2), I authorize you, Daniel Czecholinski, Division Director, Air Quality Division, Arizona Department of Environmental Quality, to perform any act, including execution of any pertinent documents, which I as Director of the Arizona Department of Environmental Quality am authorized or required to do by law with respect to A.R.S. Title 49, Chapters 1 and 3 and any other acts relating to air quality including personnel actions.

This delegation is effective immediately, shall remain in effect until it is revoked, or upon your separation from the Arizona Department of Environmental Quality. You may further delegate this authority in the best interest of the agency, however, those delegations must be in writing and you must forward a copy of any further delegations to me.

I ratify all acts performed by you as Division Director, Air Quality Division, concerning the duties and functions in this delegation letter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Cabrera", is written over a horizontal line.

Misael Cabrera, P.E.
Director

Exhibit A- II: Authorizing Statutes



A.R.S. § 49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. The department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
15. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic



competitiveness of this state and of the Arizona-Mexico region.

16. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This paragraph does not adversely affect standards adopted by an Indian tribe under federal law.

17. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.
4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies, including laboratories, in furthering any department program.
6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
 - (a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.



(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at those places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection I, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules may:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. The department may establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rulemaking process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. The department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to



sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfundamendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

(a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

(b) The availability of other funds for the duties performed.

(c) The impact of the fees on the parties subject to the fees.

(d) The fees charged for similar duties performed by the department, other agencies and the private sector.

18. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of title 27, chapter 4 relating to the oil and gas conservation commission.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying those fees that are not associated with the dredge and fill permit program established pursuant to chapter 2, article 3.2 of this title. For services provided under the dredge and fill permit program, a state agency shall pay either:

(a) The fees established by the department under the dredge and fill permit program.

(b) The reasonable cost of services provided by the department pursuant to an interagency service agreement.

2. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

3. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:



1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.
2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.



Authorizing Statute

A.R.S. § 49-106

A.R.S. § 49-106. *Statewide application of rules*

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.



A.R.S. § 49-112. *County regulations; standards*

A. When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either:
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulations.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

B. When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

C. A county that adopts rules, ordinances or regulations pursuant to subsection B of this section and that at any time cannot comply with subsection B of this section shall prepare and file a notice of noncompliance with the director. The county shall post a copy of the notice of noncompliance on the county's website with a date stamp of the date of posting. If the county does not comply with subsection B of this section within one year after posting of the notice on the county's website, the director shall provide written notice to and assert regulatory jurisdiction over those persons and entities subject to the affected county rules, ordinances or regulations.

D. Except as provided in chapter 3, article 3 of this title, before adopting or enforcing any rule, ordinance or regulation pursuant to subsection A or B of this section, the county shall comply with the following requirements:

1. Prepare a notice of proposed rulemaking to include the proposed rule, ordinance or regulation. This notice shall demonstrate evidence of compliance with subsection A or B of this section. The notice shall include the name, address and phone number of a person who can answer questions about the proposed rule, ordinance or regulation and accept any written requests for the county to conduct an oral proceeding. The county shall post the notice on the county's website with a date stamp of the date of posting. The county shall publish the availability of the notice of the proposed rule, ordinance or regulation in a newspaper of general circulation in the county. If there is no newspaper of general circulation in the county, the county shall publish the notice in a newspaper of



general circulation in an adjoining county. If requested by the public, the county shall make available a paper copy of the notice at a reasonable cost.

2. For at least thirty days after the posting of the notice of the proposed rule, ordinance or regulation, afford persons the opportunity to submit in writing comments, statements, arguments, data and views on the proposed rule, ordinance or regulation.

3. Respond in writing to the comments submitted pursuant to paragraph 2 of this subsection and post the county's response on the county's website. If requested by the public, the county shall make paper copies of its comments available at a reasonable cost.

4. Schedule a public hearing on the proposed rule, ordinance or regulation if a written request for an oral proceeding is submitted to the county during the thirty-day comment period. The county shall post the notice of oral proceeding on a proposed rule, ordinance or regulation on the county's website. The county shall post the notice of oral proceeding at least twenty days before the date of the oral proceeding. The county shall publish notice of any public hearing required pursuant to this paragraph in any newspaper as prescribed by this title or county ordinance. The county shall select a time and location for the public hearing that affords a reasonable opportunity for the public to participate.

E. A county is not required to comply with subsection D, paragraphs 2, 3 and 4 of this section before it adopts or enforces a rule, ordinance or regulation if the rule, ordinance or regulation only incorporates by reference an existing state or federal rule or law that provides greater regulatory flexibility for regulated parties and otherwise satisfies the requirements prescribed in subsection B of this section.

F. Until June 30, 1995, a person may file with the clerk of the board of supervisors for that county a petition challenging a county rule, ordinance or regulation adopted before July 15, 1994 for compliance with the criteria set forth in subsection A or B of this section. The petition shall contain the grounds for challenging the specific county rule, ordinance or regulation. Within one year after the petition is filed, the board of supervisors shall review the challenged rule, ordinance or regulation and make a written demonstration of compliance with the criteria set forth in subsection A or B of this section and challenged in the petition. Any rules, ordinances or regulations that have been challenged and for which the board of supervisors has not made the written demonstration within one year after the filing of the petition required by this section become unenforceable as of that date. If a county has already made a written demonstration under section 49-479, subsection C, for a rule, ordinance or regulation, the person filing the petition shall state the specific grounds in the petition why that demonstration does not meet the requirements of this section.

G. A rule, ordinance or regulation adopted pursuant to subsection A of this section may not be invalidated subsequent to its adoption on the grounds that the economic feasibility analysis is insufficient or inaccurate if a county makes a good faith effort to comply with the economic feasibility requirement of subsection A, paragraph 2, subdivision (a), of this section and has explained in the written statement, made public pursuant to subsection D of this section, the methodology used to satisfy the economic feasibility requirement.

H. This section shall not apply to any rule, ordinance or regulation adopted by a county pursuant to:

1. Title 36 for which the state has similar statutory or rule making authority in this title.
2. Section 49-391.
3. Chapter 3, article 8 of this title.



Authorizing Statute

A.R.S. § 49-112

4. Chapter 4, article 3 of this title and section 49-765.
5. Nonsubstantive rules relating to the application process that have a de minimis economic effect on regulated parties.



A.R.S. § 49-402. State and county control

A. The department shall have original jurisdiction over such sources, permits and violations that pertain to:

1. Major sources in any county that has not received approval from the administrator for new source review under the clean air act and prevention of significant deterioration under the clean air act.
2. Smelting of metal ore.
3. Petroleum refineries.
4. Coal fired electrical generating stations.
5. Portland cement plants.
6. Air pollution by portable sources.
7. Air pollution by mobile sources for the purpose of regulating those sources as prescribed by article 5 of this chapter and consistent with the clean air act.
8. Sources that are subject to title V of the clean air act and that are located in a county for which the administrator has disapproved that county's title V permit program if the department has a title V program that has been approved by the administrator. On approval of that county's title V permit program by the administrator, the county shall resume jurisdiction over those sources.

B. Except as specified in subsection A of this section, the review, issuance, administration and enforcement of permits issued pursuant to this chapter shall be by the county or multi-county air quality control region pursuant to the provisions of article 3 of this chapter. After the director has provided prior written notice to the control officer describing the reason for asserting jurisdiction and has provided an opportunity to confer, the county or multi-county air quality control region shall relinquish jurisdiction, control and enforcement over such permits as the director designates and at such times as the director asserts jurisdiction at the state level. The order of the director which asserts state jurisdiction shall specify the matters, geographical area, or sources over which the department shall exercise jurisdiction and control. Such state authority shall then be the sole and exclusive jurisdiction and control to the extent asserted, and the provisions of this chapter shall govern, except as provided in this chapter, until jurisdiction is surrendered by the department to such county or region.

C. Portable sources under jurisdiction of the department under subsection A, paragraph 6 of this section may be required to file notice with the director and the control officer who has jurisdiction over the geographic area that includes the new location before beginning operations at that new location.

D. Notwithstanding any other law, a permit issued to a state regulated source shall include the emission standard or standard of performance adopted pursuant to section 49-479, if such standards are more



stringent than those adopted by the director and if such standards are specifically identified as applicable to the permitted source or a component of the permitted source. Such standards shall be applied to sources identified in subsection A, paragraph 2, 3, 4 or 5 of this section only if the standard is formally proposed for adoption as part of the state implementation plan.

E. The regional planning agency for each county which contains a vehicle emissions control area shall develop plan revisions containing transportation related air quality control measures designed to attain and maintain primary and secondary ambient air quality standards as prescribed by and within the time frames specified in the clean air act. In developing the plan revisions, the regional planning agency shall consider all of the following:

1. Mandatory employee parking fees.
2. Park and ride programs.
3. Removal of on-street parking.
4. Ride share programs.
5. Mass transit alternatives.
6. Expansion of public transportation systems.
7. Optimizing freeway ramp metering.
8. Coordinating traffic signal systems.
9. Reduction of traffic congestion at major intersections.
10. Site specific transportation control measures.
11. Reversible lanes.
12. Fixed lanes for buses and carpools.
13. Encouragement of pedestrian travel.
14. Encouragement of bicycle travel.
15. Development of bicycle travel facilities.
16. Employer incentives regarding ride share programs.
17. Modification of work schedules.
18. Strategies for controlling the generation of air pollution by nonresidents of nonattainment or maintenance areas.
19. Use of alternative fuels.
20. Use of emission control devices on public diesel powered vehicles.



21. Paving of roads.

22. Restricting off-road vehicle travel.

23. Construction site air pollution control.

24. Other air quality control measures.

F. Each regional planning agency shall consult with the department of transportation to coordinate the plans developed pursuant to subsection E of this section with transportation plans developed by the department of transportation pursuant to any other law.



A.R.S. § 49-404. *State implementation plan*

A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.

B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.

C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.



A.R.S. § 49-406. *Nonattainment area plan*

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.

E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.

F. At a minimum, the memorandum of agreement shall contain:

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:



- (a) Demographics.
- (b) Transportation.
- (c) Emissions inventories.
- (d) Assumptions used in developing the model.
- (e) Results of modeling done in support of the plan.
- (f) Monitoring data.

G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:

1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
2. A program for the enforcement of the limitation or measure.
3. The level of personnel and funding allocated to the implementation of the measure.

H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt



Authorizing Statute

A.R.S. § 49-406

the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.



A.R.S. § 49-425. Rules; hearing

A. The director shall adopt such rules as he determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify, and amend reasonable standards for the quality of, and emissions into, the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions, and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.

B. No rule may be enacted or amended except after the director first holds a public hearing after twenty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.

C. The department shall enforce the rules adopted by the director.

D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge upon request.

Exhibit A- III: SIP Public Notice and Affidavit of Publication

THE ARIZONA REPUBLIC

PO Box 194, Phoenix, Arizona 85001-0194

Phone 1-602-444-7315

Fax 1-877-943-0443

This is not an invoice

PNI-Arizona Republic

AFFIDAVIT OF PUBLICATION

**AZ DEPT EVIRON QUAL
1110 W. WASHINGTON ST. 3 RD FL
PHOENIX, AZ 85007**

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY PUBLIC NOTICE

The Air Quality Division of the Arizona Department of Environmental Quality (ADEQ) welcomes comments on the proposed 2013-2020 CBG Update & Removal of the Gasoline Set-aside Program.

The purpose of the proposed State Implementation Plan (SIP) revision is to update the Arizona Weights and Measures Service Division's statutes and rules in the Arizona SIP to those currently utilized by the State under Arizona Revised Statutes, Title 3, Chapter 7. As well as, to remove the outdated Gasoline Set-aside program which was repealed in 2018, by Laws 2nd Reg. Sess. Ch. 260, §3 from the Arizona SIP. ADEQ is requesting the U.S. Environmental Protection Agency (EPA) approve this SIP revision into the Arizona SIP.

Comments will be accepted between May 8, 2021 through June 8, 2021. Comments must be received or post marked no later than 5:00 pm on June 8, 2021. Comments may be mailed, faxed, or emailed to Samantha Schaffer, Arizona Department of Environmental Quality, 1110 W. Washington St., Phoenix, AZ 85007. Phone (602) 771-2351; email Samantha.Schaffer@azdeq.gov. Comments are also welcome at the virtual public hearing held on June 8, 2021, at 11:00 am.

Information to Access the Virtual Public Hearing

Please register for the 2013-2020 Arizona Cleaner Burning Gasoline Program Update and the Removal of the Gasoline Set-aside program from the Arizona SIP on Jun 8, 2021 11:00 AM MST at: <https://attendee.gotowebinar.com/r/1642047932044448015>

After registering, you will receive a confirmation email containing information about joining the webinar. Additional information, including how to access the virtual public hearing, can be found at <https://azdeq.gov/public-notices> or by contacting Samantha Schaffer using the information above.

Review the proposed SIP revision online at: <https://azdeq.gov/notices> or at the ADEQ Records Center, 1110 W. Washington St., Phoenix, AZ 85007. For Records Center hours or appointment scheduling, call (602) 771-4380.

ADEQ will take reasonable measures to provide access to department services to individuals with limited ability to speak, write or understand English and/or to those with disabilities. Requests for language translation, ASL interpretation, CART captioning services or disability accommodations must be made at least 48 hours in advance by contacting the Title VI Nondiscrimination Coordinator at (602) 771-2215 or Communications@azdeq.gov. For a TTY or other device, Telecommunications Relay Services are available by calling 711.

ADEQ tomará las medidas razonables para proveer acceso a los servicios del departamento a personas con capacidad limitada para hablar, escribir o entender inglés y/o para personas con discapacidades. Las solicitudes de servicios de traducción de idiomas, interpretación ASL (lengua de signos americano), subtítulos de CART, o adaptaciones por discapacidad deben realizarse con al menos 48 horas de anticipación comunicándose con el Coordinador de Anti-Discriminación del Título VI al (602) 771-2215 o Communications@azdeq.gov. Para un TTY u otro dispositivo, los servicios de retransmisión de telecomunicaciones están disponibles llamando al 711.
Pub: May 8, 9, 2021

This is not an invoice

Order # 0004721687 # of Affidavits 1


P.O # Isobutanol


Published Date(s):

05/08/21, 05/09/21

**STATE OF WISCONSIN
COUNTY OF BROWN } SS.**

I, being first duly sworn, upon oath deposes and says: That I am the legal clerk of the Arizona Republic, a newspaper of general circulation in the counties of Maricopa, Coconino, Pima and Pinal, in the State of Arizona, published weekly at Phoenix, Arizona, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates indicated.


Sworn to before me this
9 TH day of
MAY 2021


Notary Public
My Commission expires: 9/9/21

VICKY FELTY
Notary Public
State of Wisconsin

RECEIVED
MAY 14 2021
BY: _____



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COMMENT PERIOD BEGINS | Proposed SIP Revision: 2013 - 2020 Cleaner Burning Gasoline Update and Removal of the Gasoline Set-Aside Program

On Saturday, May 8, 2021, the comment period begins for the proposed State Implementation Plan (SIP) revision regarding the 2013 – 2020 cleaner burning gasoline update and removal of the gasoline set-aside program. The comment period ends on June 8, 2021.

[Public Notice/Related Documents](#) | [View >](#)

Comments may be submitted as follows:

Email | [Send Email >](#)

Mail: *(Must be postmarked or received by June 8, 2021)*

ADEQ

Samantha Schaffer

Air Quality Division

1110 W. Washington Street

Phoenix, AZ 85007

Online or by phone at virtual public hearing:

Date: June 8, 2021

Time: 11 a.m.

Location: Online via GoToWebinar | [Register >](#)

After registering, you will receive a confirmation email containing information about joining the webinar.

Exhibit A- IV: SIP Public Hearing Agenda

**AIR QUALITY DIVISION PUBLIC HEARING
PROPOSED 2013-2020 CBG Update & Removal of the Gasoline Set-aside Program**

**Arizona Department of Environmental Quality
Online Public Hearing
June 8, 2021 at 11:00AM**

Pursuant to 40 CFR 51.102 notice is hereby given that the above referenced meeting is open to the public.

1. Welcome and Introductions
2. Purpose of the Oral Proceedings
3. Procedure for Making Public Comment
4. Brief Overview of the Proposal
5. Oral Comment Period
6. Adjournment of Oral Proceeding

During the 30-day comment period, the proposed SIP Revision is available online on the ADEQ Air Quality Improvement Planning webpage at <https://azdeq.gov/SIP>. The proposal is also available at the ADEQ Records Center, 1110 W. Washington St., Phoenix, AZ 85007, (602) 771-4380 or (800) 234-5677 ext. 6027714380. Please call for hours of operation and to schedule an appointment.

Written comments may be mailed to Samantha Schaffer, Arizona Department of Environmental Quality, Air Quality Division, 1110 W. Washington St., Phoenix, AZ 85007. Comments may also be emailed to schaffer.samantha@azdeq.gov. All comments must state the name and mailing address of the person; be signed by the person, their agent, or attorney; and clearly set forth reasons why the proposed revisions should or should not be finalized. The public comment period closes June 8, 2021. Mailed comments must be postmarked by June 8, 2021 before 5:00 PM. For additional information regarding the hearing please contact Samantha Schaffer, ADEQ Air Quality Division, at 602-771-2351.

ADEQ will take reasonable measures to provide access to department services to individuals with limited ability to speak, write or understand English and/or to those with disabilities. Requests for language interpretation, ASL interpretation, CART captioning services or disability accommodations must be made at least 48 hours in advance by contacting Communications, the acting Title VI Nondiscrimination Coordinator at 602-771-2215 or Communications@azdeq.gov. Teleprinter services are available by calling 7-1-1 at least 48 hours in advance to make necessary arrangements.

ADEQ tomará las medidas razonables para proveer acceso a los servicios del departamento a personas con capacidad limitada para hablar, escribir o entender inglés y / o para personas con discapacidades. Las solicitudes de servicios de interpretación de idiomas, interpretación ASL, subtítulos de CART, o adaptaciones por discapacidad deben realizarse con al menos 48 horas de anticipación contactando a

Communications, Coordinador de Anti-Discriminación del Título VI al 602-771-2215 o or Communications@azdeq.gov. Los servicios de teleimpresores están disponibles llamando al 7-1-1 con al menos 48 horas de anticipación para hacer los arreglos necesarios.

Exhibit A-V: SIP Public Hearing Sign-in Sheet



Air Quality Division Sign-In Sheet

Please Sign In

Subject: 2013-2020 Arizona Cleaner Burning Gasoline Program Update
and the Removal of the Gasoline set-aside program from the
Arizona SIP

Date:

6/8/2021

	<u>Name</u>	<u>Organization</u>	<u>Phone</u>	<u>Email</u>
1.	Scott Anthony	Shell		Scott.anthony@shell.com
2.	Joseph Sorena	Chevron		jsorena@chevron.com
3.	Mitchell DePalma	NGC		Mitchell.depalma@ngc.com
4.	Lori Taylor	Valero		Lori.taylor@valero.com
5.	Amanda Gray	Arizona Petroleum Marketers Association		AMANDA@APMA4U.ORG
6.	Natalie Keck	Pilot Travelers Centers		Natalie.Keck@pilottravelcenters.com
7.	Alan Nichelson	Paul Oil Company		anichelson@pauloilcompany.com
8.	Francisco Martinez			Fjm1988.1988@gmail.com
9.	Marc Ventura	Phillips 66		Marc.V.Venturea@p66.com
10	Christopher Hill	Pilot Travelers Centers		Christopher.hill@pilottravelcenters.com

AIR QUALITY DIVISION SIGN-IN SHEET

	<u>Name</u>	<u>Organization</u>	<u>Phone</u>	<u>Email</u>
11.	Cinda Lohmann	Turner Mason		cindalohmann@turnermason.com
12.	Bari Hatheway	QuikTrip		bhathewa@quiktrip.com
13.	Marilyn Herman	Herman & Associates		MHerman697@aol.com
14.	Michelle Wilson	WMSD		mwilson@azda.gov
15.	Adrian Castillo	ADEQ		Castillo.adrian@azdeq.gov
16.	Kelly McKenzie	ADEQ		McKenzie.Kelly@azdeq.gov
17.	Zachary Dorn	ADEQ		Dorn.zachary@azdeq.gov
18.	Adeel Khan	ADEQ		Khan.Adeel@azdeq.gov
19.	Kamran Khan	ADEQ		Khan.Kamran@azdeq.gov
20.	Samantha Schaffer	ADEQ		Schaffer.samantha@azdeq.gov
21.	Lee Kaechele	ADEQ IT		Kaechele.lee@azdeq.gov
22.	Susie Stevens	Stevens and Stevens Law		
23.				

Exhibit A- VI: SIP Public Hearing Officer Certification



Air Quality Division

Public Hearing Presiding Officer Certification

I, Zachary Dorn, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality (ADEQ) was conducted on June 8, 2021 online in Arizona, in accordance with public notice requirements by publication in the *Arizona Republic* on May 8 and 9, 2021. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

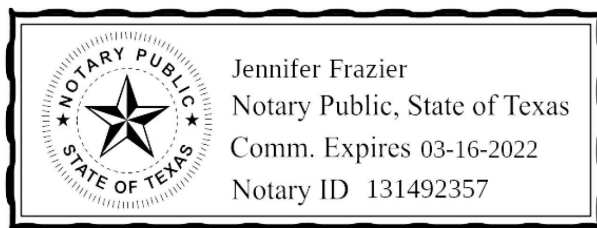
Dated this the 15 day of June, 2021



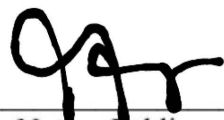
Signature of Hearing Officer

State of Texas)
County of Dallas) ss.
)

Subscribed and sworn to before me on this 15 day of June, 2021



Notarized Online with NotaryLive.com



Notary Public

My commission expires: Mar 16, 2022

This document is signed by


	Signatory	CN=Jennifer Frazier:A01410D00000177EEF8044C00015A2D, O=Unaffiliated, C=US
	Date/Time	Tue Jun 15 21:15:38 UTC 2021
	Issuer-Certificate	CN=IGC CA 1, OU=IdenTrust Global Common, O=IdenTrust, C=US
	Serial-No.	85078216566896213877543988329775429903
	Method	urn:adobe.com:Adobe.PPKLite:adbe.pkcs7.sh1 (Adobe Signature)

Exhibit A- VII: SIP Public Hearing Transcript

Proposed 2013-2020 CBG Update & Removal of the Gasoline Set-aside Program

Oral Proceeding

Hearing Officer Transcript

June 8, 2021

Zachary Dorn: Thank you all for coming. I now open this hearing on the proposed 2013 to 2020 CBG Update & Removal of the Gasoline Set-aside Program.

This proceeding is being recorded and will be preserved for the record.

Today is June 8th, 2021, and the time is 11:00 AM. This hearing is being held virtually using GoToWebinar software. My name is Zachary Dorn, and I have been appointed by the Director of the Arizona Department of Environmental Quality (ADEQ) to preside at this proceeding.

The purpose of this oral proceeding is to provide the public an opportunity to:

Hear a summary of the proposed SIP Revision, ask questions, or provide comments if they choose to do so.

The Department representatives for today's hearing are Samantha Schaffer and Kamran Khan of the Air Quality Division's Air Quality Improvement Planning Section. The representative from the Department of Agriculture, Weights and Measures Services Division is Michelle Wilson.

Public notice of the comment period and hearing was published in the *Arizona Republic* on May 8th, 2021. Copies of the proposal were made available on ADEQ's website and at the ADEQ Phoenix Records Center starting May 8th, 2021, and will remain available until the close of comment period, which is 5:00 p.m. today.

1 If you wish to make a verbal comment, please raise your hand using the GoToWebinar Software
2 and you will be called on during this proceeding. You may also submit written comments during
3 today's hearing. Comments may also be mailed to Samantha Schaffer, Air Quality Division, Air
4 Quality Improvement Planning Section, Arizona Department of Environmental Quality, 1110 W.
5 Washington St., Phoenix, AZ 85007, or emailed to Schaffer.samantha@azdeq.gov. Attendees
6 also have the option of commenting using the GoToWebinar software. Please refer to the hearing
7 agenda for additional submission details. Mailed comments must be postmarked by June 8th,
8 2021.

9
10 Comments made during the formal comment period are required by law to be considered by the
11 Department when preparing the final submission to the U.S. Environmental Protection Agency.
12 ADEQ will include a responsiveness summary for written and oral comments received during
13 the formal comment period.

14
15 The agenda for this hearing is as follows:

16
17 First, we will present a brief overview of the proposal.

18
19 Then I will conduct the oral comment portion. At that time, I will call speakers in the order that
20 the comments were received.

21
22 Please be aware that any comments at today's hearing that you want the Department to formally
23 consider must be given either in writing or on the record during this oral proceeding.

24
25 The hearing agenda is available under the handouts tab in the GoToWebinar software.

26
27 Also, there will be a short survey at the end of this hearing that will ask for your opinion on
28 virtual meetings. If you could please participate, our department would greatly appreciate it.

29
30 At this time, Samantha Schaffer will give you a brief overview of the proposal.

1 Samantha Schaffer: Thank you, Zac.

2
3 Hello and thank you for coming. This public hearing is being held regarding a SIP revision to the
4 Weights and Measures Services Division's section of the Arizona State Implementation Plan.
5 Subsequently, ADEQ in cooperation with Weights and Measures Services Division, will be
6 submitting this revision to the U.S. EPA for approval into the Arizona SIP under 40 C.F.R. §
7 51.120.

8
9 On August 2013, sorry, August 8th, 2013, ADEQ submitted the 2013 Update to the Arizona State
10 Implementation Plan for the Cleaner Burning Gasoline Program to the EPA for approval.

11
12 A subsequent supplement incorporating minor technical changes was submitted July 8th, 2014.
13 However, EPA did not act on the 2013 Revision or the 2014 Supplement because Arizona needed
14 to make specific regulatory changes before it could obtain EPA approval.

15
16 In 2016, the Arizona Department of Weights and Measures was merged into the Department of
17 Agriculture, creating the Weights and Measures Services Division. This merger transferred all of
18 the Department of Weights and Measures rules and statutes to the newly established Division.

19
20 Weights and Measures Services Division following the merger filed a Notice of Recodification
21 under 22 Arizona Administrative Register 2786, on August 15th, 2016 (Supp. 16-3). This
22 recodification did not alter the language or the authority of any of the statutes and rules
23 transferred.

24
25 On May 10th, 2017, the Arizona Legislature amended the CBG Program under A.R.S. §§ 3-3491
26 and 3-3493 to incorporate the oxygenate isobutanol as an optional alternative to ethanol.

27
28 On April 19th, 2018, the Arizona Legislature repealed the Gasoline Set-aside Program in Senate
29 Bill 1200. ADEQ made the decision to incorporate the repeal of the set-aside program into this
30 particular SIP.

1 This SIP revision requests the removal of the now-defunct gasoline set-aside program and the
2 withdrawal of the 2013 and 2014 CBG SIPs submitted by ADEQ that were not reviewed by EPA.

3
4 It also incorporates by reference updates made to Weights and Measures Services Division's rules
5 and statutes made over the last 20 years, that are already enforced at the state level.

6
7 ADEQ is asking EPA to consider this submission in place of the 2013 and 2014 CBG SIPs, now
8 that the previous submissions are outdated. In addition to incorporating the legislature's revisions,
9 this submission implements the initial feedback EPA provided ADEQ on the 2013 Revision.

10
11 In sum this revision simply updates the Weights and Measures rules and statutes in the Arizona
12 SIP to reflect their current iterations.

13 * * * * *

14
15
16 Mr. Dorn: This concludes the overview portion of this proceeding.

17
18 * * * * *

19
20 If you wish to ask a question or make a comment, please press the raise hand icon in the toolbar.
21 We will call on any raised hands during the proceeding and unmute your line. Alternatively, you
22 can type your comment or questions into the chat.

23
24 Are there any questions before we move to the oral comment period?

25
26 Alright, we will give it another minute if there are any questions, and then we will move on to
27 the comment period.

28
29 Hearing no questions and seeing none in the chat or questions, this concludes the question and
30 answer portion of this proceeding for the proposed SIP.

31 * * * * *

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I now open this proceeding for oral comments. If you have a comment to make, please press the raise hand icon or type your comment into the chat box now.

Seeing no comments, this concludes the oral comment portion of this proceeding.

* * * * *

If you have not already submitted written comments, you may submit them at this time. Again, the comment period for this proposal ends today at 5:00 p.m.

Thank you for attending.

The time is now 11:09 AM, and I close this oral proceeding.

Exhibit A- VIII: Compilation of Comments and State Responses



Responsiveness Summary

Response to Testimony Taken at Oral Proceedings and Written Comments Received on the SIP Revision: 2013-2020 Arizona Cleaner Burning Gasoline Program Update & Removal of the Gasoline Set-aside Program from the Arizona SIP

Oral proceedings on the SIP Revision: 2013-2020 Arizona Cleaner Burning Gasoline Program Update & Removal of the Gasoline Set-aside Program from the Arizona SIP were held on Tuesday, June 8, 2021 at 11:00 a.m. on online via GoToWebinar. The public comment period closed on Tuesday, June 8, 2021, at 5:00 p.m. No oral or written comments were received by ADEQ for this SIP revision.